

**RESOLUTION NO. R-61-09**

**A RESOLUTION APPROVING A LOCAL SHARE AGREEMENT  
FOR A CONNECTOR BUS ROUTE (ROUTE 714)  
LINKING THE CITY OF WHEATON WITH THE CITY OF NAPERVILLE  
WITH DIRECT SERVICE TO THE COLLEGE OF DUPAGE**

**WHEREAS**, Pace Route 714, the College of DuPage Connector bus service, links the City of Wheaton with the City of Naperville, with direct service to the College of DuPage, and

**WHEREAS**, a federal Congestion Mitigation Air Quality ("CMAQ") grant has been utilized to cover the cost to operate Pace Route 714 since its inception 2 years ago, with the City of Wheaton contributing \$48,000 to a local match in 2008, and

**WHEREAS**, Pace is unable to fully fund the Route following the expiration of the CMAQ funding, and

**WHEREAS**, Pace is requesting that the City of Wheaton – in partnership with DuPage County and the City of Naperville – provide a one-time, limited local match guarantee of \$36,000 to allow the Route to continue.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHEATON, DUPAGE COUNTY, ILLINOIS, in exercise of its home rule authority as follows:**

**SECTION 1:** The City hereby guarantees payment to Pace of \$36,000 during its 2009-2010 fiscal year for its portion of the local share to Pace, for the College of DuPage Connector bus service (Route 714).

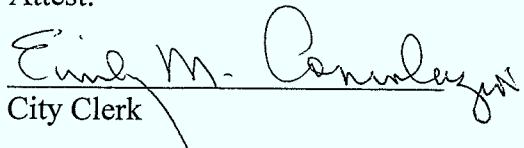
**SECTION 2:** The City Manager and City Clerk are hereby authorized to execute the Agreement attached to this Resolution as Exhibit A.

**SECTION 3:** This Resolution shall be in full force and effect upon its passage and approval.

**ADOPTED** this 8th day of September, 2009.

  
\_\_\_\_\_  
**Michael J. Jones**  
Mayor

Attest:

  
\_\_\_\_\_  
**Cindy M. Connelly**  
City Clerk

Roll Call Vote:

Ayes:            Councilman Scalzo  
                  Councilman Suess  
                  Councilman Levine  
                  Councilman Mouhelis  
                  Councilman Prendiville

Nays:            Mayor Gresk  
                  Councilwoman Corry

Absent:          None

Motion Carried

**SERVICE AGREEMENT**  
**ROUTE 714 College of DuPage – Naperville – Wheaton Connector**

This Agreement made this 8<sup>th</sup> day of September, 2009 between the Suburban Bus Division of the Regional Transportation Authority, (hereinafter referred to as "Pace"), the City of Wheaton, (hereinafter referred to as "Wheaton"), the City of Naperville, (hereinafter referred to as "Naperville"), and the County of DuPage (hereinafter referred to as "DuPage County").

WHEREAS, Pace was established under the Regional Transportation Authority Act (70 ILCS 3615) for the purpose of providing public transportation in the six county Northeastern Illinois area; and

WHEREAS, Wheaton, Naperville, and DuPage County have requested, and Pace has agreed to operate, a bus route commonly known as "Route 714 College of DuPage – Naperville – Wheaton Connector", identified by Exhibit A, attached hereto and made a part hereof, and

NOW, THEREFORE, in consideration of the mutual promises contained herein, the sufficiency of which is hereby mutually acknowledged, the parties hereby agree as follows:

- 1) Description of Service - Pace agrees to provide bus service (hereinafter "Service") to connect Naperville to Wheaton with direct service to the College of DuPage pursuant to the route schedule attached hereto as Exhibit A.
- 2) Payment - Pace shall separately bill Wheaton, Naperville, and DuPage County on a monthly basis for their share of operating costs. The cost to each the City of Wheaton and the City of Naperville shall not exceed \$36,000 annually. The cost to DuPage County shall not exceed \$56,000 annually. The monthly costs will be calculated in accordance with Exhibit B and C:
  - Recovery ratio will be calculated by dividing Adjusted Revenue by Gross Cost as per Exhibit B and C.
  - Cost to Wheaton, Naperville, and DuPage County will be calculated by multiplying % needed to reach \_\_\_\_ by Gross Cost as per Exhibit B and C.
  - o In Year 1 (May 1, 2009 to April 30, 2010), the amount billed to Wheaton, Naperville, and DuPage County will be calculated by taking the actual recovery ratio (gross cost less adjusted revenue) and subtracting this recovery ratio from 36%. The gross cost will then be multiplied by the remaining recovery ratio to determine the total billing amount. Wheaton, Naperville, and DuPage County will each be billed for one third of the total billing amount. (Refer to exhibit B)
  - o If extended, in Year 2 (May 1, 2010 to April 30, 2011), the amount billed to Wheaton, Naperville, and DuPage County will be calculated by taking the actual recovery ratio (gross cost less adjusted revenue) and subtracting this recovery ratio from 30%. The gross cost will then be multiplied by the remaining recovery ratio to determine the total billing amount. Wheaton, Naperville, and DuPage County will each be billed for one third of the total billing amount. (Refer to exhibit C)
  - o If extended, in Year 3 (May 1, 2011 to April 30, 2012), the amount billed to Wheaton, Naperville, and DuPage County will be calculated by taking the actual recovery ratio (gross cost less adjusted revenue) and subtracting this recovery ratio from 25%. The gross cost will then be multiplied by

the remaining recovery ratio to determine the total billing amount. Wheaton, Naperville, and DuPage County will each be billed for one third of the total billing amount. (Refer to Exhibit C)

Payment shall be made to Pace within 30 days of receipt of an approved invoice.

Pace Suburban Bus Service  
550 W. Algonquin Road  
Arlington Heights, IL 60005  
Attn: Accounting Department

3) Term - This Agreement is effective from **May 1, 2009** through **April 30, 2010**. Wheaton, Naperville, and DuPage County, have the option to extend the contract for two more years (May 1, 2010 – April 30, 2011, and May 1, 2011 – April 30, 2012) Exhibit C displays the calculations that will be used to determine the monthly billings if Wheaton, Naperville, and DuPage County extend the contract.

4) Service Provision - Pace shall not be responsible for any failure to provide the Service due to circumstances beyond the control of Pace. However, Pace shall make every reasonable effort to restore Service as soon as practical under the circumstances. Pace shall have the right to make minor revisions to the Service during the term of this Agreement upon written notification to and concurrence by Wheaton, Naperville, and DuPage County. No fees will be charged to Wheaton, Naperville, or DuPage County for services not performed.

6) Termination of Service – Pace, Wheaton, Naperville, or DuPage County may terminate this Agreement with sixty (60) days advance written notification to Pace and all other participants. In the event Wheaton, Naperville or DuPage County, elects to terminate said service, the service shall terminate with proper notification; however the remaining participants shall have fourteen (14) days from receipt of notice of termination to enter into a new agreement with Pace to continue the service. Should either Pace, Wheaton, Naperville, or DuPage County, elect to cancel this service, billing shall be prorated and payment shall be only for the service that was provided prior to the termination of service.

7) Complete Agreement – This Agreement constitutes the entire Agreement between the parties hereto, and supersedes any and all previous Agreements between the parties as to the Services described in this Agreement. Any proposed change in this Agreement shall be submitted to Pace for its prior approval. No modification, addition, or deletion to this Agreement shall be effective unless and until such changes are reduced to writing and executed by the authorized officers of each party.

8) Notice – All notices due to the other party shall be delivered to the address indicated below:

Pace  
550 West Algonquin Road  
Arlington Heights, IL 60005  
Attn: Thomas J. Ross

City of Wheaton  
303 West Wesley Street  
Wheaton, IL 60187  
Attn: Jim Kozik

City of Naperville  
400 South Eagle Street  
Naperville, IL 60540  
Attn: Karyn Robles

DuPage County  
JTK Administration Building  
421 North County Farm Road  
Wheaton, IL 60187

Attn: Mark Avery

9) Independent Relationship - Pace is an independent contractor and not an employee, agent, joint venturer, or partner of Wheaton, Naperville, and DuPage County, and nothing in this Agreement shall be construed as creating any other relationship between Wheaton, Naperville, and DuPage County, or between any employee or agent of Pace and Wheaton, Naperville, or DuPage County. Pace employees shall at all times remain employees of Pace, which shall be solely responsible for all aspects of their employment, including, without limitation, compensation, benefits, payment or withholding of taxes, Social Security, Medicare, unemployment or other insurance, and workers compensation.

10) Severability - The provisions of this Agreement shall be severable. The unenforceability or invalidity of any one or more provisions, clauses or sentences hereof shall not render any other provision, clause or sentence herein contained unenforceable or invalid. The portion of the Agreement which is not invalid or unenforceable shall be considered enforceable and binding on the parties and the invalid or unenforceable provision(s), clause(s) or sentence(s) shall be deemed excised, modified or restricted to the extent necessary to render the same valid and enforceable, and this Agreement shall be construed as if such invalid or unenforceable provision(s), clause(s) or sentence(s) were omitted. The provisions of this paragraph shall survive the termination of this Agreement for any reason.

11) Binding Agreement - This Agreement supersedes any and all prior agreements between the parties, whether written or oral, and shall be binding upon the parties as to the Services described in this Agreement.

12) Authority - Pace, Wheaton, Naperville, and DuPage County, represent and warrant that their representatives whose signatures appear below have the power and authority to enter into this Agreement and to obligate Pace, Wheaton, Naperville, and DuPage County, to the terms of this Agreement.

13) Governing Law - This Agreement shall be construed in accordance with the laws of the State of Illinois.

14) Insurance - Pace shall arrange for Wheaton, Naperville, and DuPage County, to be named as an additional insured under Pace's auto liability policies of insurance with respect to claims asserted against Wheaton, Naperville, and DuPage County, arising from Pace's negligent acts or omissions in providing the services described in this Agreement. Pace shall provide copies of Certificates of Insurance to Wheaton, Naperville, and DuPage County designating Wheaton, Naperville, and DuPage County, as an additional insured.

In the event that Pace contracts with any outside service providers to provide the Service described herein, Pace shall require the outside service providers to arrange for Wheaton, Naperville and DuPage County to be named as additional insured under the outside service provider's auto liability policies of insurance with respect to claims asserted against them arising from any negligent acts or omissions of the outside service providers in connection with the Service described in this Agreement. Pace shall provide copies of initial certificates of insurance to each Wheaton, Naperville and DuPage County; thereafter those entities shall be responsible for tracking and monitoring their additional insured status on outside service provider's auto liability policies of insurance.

15) Defend, Indemnify and Hold Harmless – Pace agrees to defend, indemnify, and hold harmless Wheaton, Naperville, and DuPage County, for claims, damages, losses and costs for property damage or personal injury to the extent caused by the negligent acts or omissions by Pace in providing transportation service under this Agreement, or if services are provided through or by an outside contractor, Pace agrees to require the contractor to defend, indemnify and hold harmless Wheaton, Naperville, and DuPage County, for claims, damages, losses, and costs for property damage or personal injury to the extent caused by the negligent acts or omissions by said contractor in providing transportation services under this Agreement, provided that Wheaton, Naperville, and DuPage County gives timely notice to Pace of any such claim. In the event that Pace omits to require such defense and indemnification and hold harmless of its outside contractors, Pace agrees that it shall assume responsibility for said defense and indemnification obligations.

As a condition precedent to the insurance and indemnity provided in Paragraphs 14 and 15 above, Wheaton, Naperville, and DuPage County, shall provide immediate written notice to Pace of all claims and lawsuits. With respect to any lawsuit that is within the scope of coverage and/or indemnity afforded by paragraph 14 and 15, Pace shall have the right and duty to defend Wheaton, Naperville, and DuPage County, including the right to select defense counsel and control the defense of such lawsuit. In the event of any conflict of interest that would prevent Pace from controlling such defense or that would require Pace to allow Wheaton, Naperville, and DuPage County, to select independent defense counsel, Pace will reimburse the reasonable attorneys fees and expenses incurred in such defense by Wheaton, Naperville, and DuPage County, provided however that the hourly rates of such counsel shall not exceed the hourly rates ordinarily paid by Pace to its outside counsel for defense of similar types of lawsuits.

The provisions contained in paragraph 15 of this Agreement shall survive termination or expiration of this Agreement.

16) Counterparts – This Agreement may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be made effective as of the date set forth above and executed by their duly authorized officials.

**Pace**

By: \_\_\_\_\_  
Thomas J. Ross  
Executive Director  
Pace Suburban Bus Service

Date: \_\_\_\_\_

**The City of Wheaton**

By: Michael J. Gross  
\_\_\_\_\_  
Mayor  
Title

Date: October 12, 2009

**The City of Naperville**

By: \_\_\_\_\_  
\_\_\_\_\_  
Title

Date: \_\_\_\_\_

**The County of DuPage**

By: \_\_\_\_\_  
\_\_\_\_\_  
Title

Date: \_\_\_\_\_



# Exhibit A

## ROUTE 714 College of DuPage - Naperville - Wheaton Connector



### WEEKDAY NORTHBOUND

10	9	8	7	6	4	5	3	2	1	
EDWARD HOSPITAL MARTIN/BROM	NAPERVILLE BN STATION ARRIVE	NAPERVILLE BN STATION DEPART	NAPERVILLE / OGDEN	BUTTERFIELD / NAPERVILLE	NAPERVILLE RD / EAST LOOP DR	COLLEGE OF DUPAGE W. CAMPUS	COLLEGE OF DUPAGE INSTRUCTIONAL CENTER	ROOSEVELT/ LORRAINE	PRESIDENT/ CRESCENT	WHEATON METRA STATION
6:20am	6:30am	6:37am	6:46am	6:53am	6:56am	7:01am	7:05am	7:10am	7:14am	7:20am
7:05	7:15	7:17	7:26	7:33	7:36	7:41	7:45	7:50	7:54	8:00
7:30	7:40	7:42	7:51	7:58	8:01	8:06	8:10	8:15	8:19	8:25
8:07	8:17	8:20	8:29	8:36	8:39	8:44	8:48	8:53	8:57	9:03
8:35	8:45	8:47	8:56	9:03	9:06	9:11	9:15	9:20	9:24	9:30
9:08	9:18	9:20	9:29	9:36	9:39	9:44	9:48	-	-	-
9:40	9:50	9:52	10:00	10:04	10:07	10:11	10:15	10:20	10:23	10:28
10:10	10:20	10:22	10:29	10:34	10:37	10:41	10:45	-	-	-
10:40	10:50	10:52	10:59	11:04	11:07	11:11	11:15	11:20	11:23	11:28
11:40	11:50	11:52	11:59	12:04pm	12:07pm	12:11pm	12:15pm	12:20pm	12:23pm	12:28pm
12:40pm	12:50pm	12:52pm	12:59pm	1:04	1:07	1:11	1:15	1:20	1:23	1:28
1:40	1:50	1:52	1:59	2:04	2:07	2:11	2:15	2:20	2:23	2:28
2:40	2:50	2:52	2:59	3:04	3:07	3:11	3:15	3:20	3:24	3:28
3:40	3:50	3:57	4:06	4:13	4:16	4:21	4:25	4:30	4:34	4:40
-	-	-	-	-	-	5:01	5:05	5:10	5:14	5:20
4:45	4:55	4:57	5:06	5:13	5:16	5:21	5:25	5:30	5:34	5:40
5:17	5:27	5:29	5:38	5:45	5:48	5:53	5:57	6:02	6:06	6:12
5:50	6:00	6:02	6:11	6:18	6:21	6:26	6:30	6:35	6:38	6:45

### WEEKDAY SOUTHBOUND

1	2	3	4	5	6	7	8	9	10	
WHEATON METRA STATION	PRESIDENT/ CRESCENT	ROOSEVELT/ LORRAINE	COLLEGE OF DUPAGE W. CAMPUS	COLLEGE OF DUPAGE INSTRUCTIONAL CENTER	NAPERVILLE RD / EAST LOOP DR	BUTTERFIELD / NAPERVILLE	NAPERVILLE / OGDEN	NAPERVILLE BN STATION ARRIVE	NAPERVILLE BN STATION DEPART	EDWARD HOSPITAL MARTIN/BROM
7:05am	7:11am	7:15am	7:21am	7:25am	7:33am	7:37am	7:44	7:09am	7:17am	7:20am
7:32	7:38	7:42	7:46	7:50	7:58	8:02	8:09	8:17	8:20	8:30
8:07	8:13	8:17	8:21	8:25	8:33	8:37	8:44	8:52	8:55	9:05
8:32	8:38	8:42	8:46	8:50	8:58	9:02	9:09	9:17	9:20	9:30
9:07	9:13	9:17	9:21	9:25	9:33	9:37	9:44	9:52	9:55	10:05
9:36	9:42	9:46	9:50	9:54	10:02	10:06	10:11	10:18	10:22	10:32
10:46	10:51	10:55	11:01	11:05	11:12	11:16	11:21	11:28	11:32	11:40
11:46	11:51	11:55	12:01pm	12:05pm	12:12pm	12:16pm	12:21pm	12:28pm	12:32pm	12:40pm
12:46pm	12:51pm	12:55pm	1:01	1:05	1:12	1:16	1:21	1:28	1:32	1:40
1:46	1:51	1:55	2:01	2:05	2:12	2:16	2:21	2:28	2:32	2:40
2:41	2:46	2:51	2:56	3:00	3:07	3:11	3:18	3:24	3:30	3:40
3:41	3:47	3:51	3:56	4:00	4:08	4:12	4:20	4:28	4:31	4:41
-	-	-	4:29	4:33	4:41	4:45	4:52	5:00	5:05	5:15
4:45	4:51	4:55	5:01	5:05	5:13	5:17	5:24	5:32	5:35	5:45
5:20	5:26	5:30	5:36	5:40	5:47	5:51	5:59	6:07	6:10	6:20
5:45	5:51	5:55	6:01	6:05	6:13	6:17	6:24	6:32	6:35	6:45

No Service on Saturday, Sunday or Holidays.

No hay servicio los Sábados, Domingos o Días Festivos.

**EXHIBIT B**

Route 714 Billing Exhibit to demonstrate calculations

Wheaton, Naperville, and DuPage County will be billed monthly on actual cost of operation. Ridership and costs will vary.

Route 714 Billing Exhibit to demonstrate calculations						
Wheaton, Naperville, and DuPage County will be billed monthly on actual cost of operation. Ridership and costs will vary.						
Year 1: May 1, 2009 - April 30, 2010						
To arrive at Recovery Ratio: Adjusted Revenue divided by Gross Cost To arrive at % needed to reach ____: 36% minus the Recovery Ratio To arrive at monthly billings: % needed to reach ____ multiplied by Gross Cost						
Month	Ridership	Daily Vehicle Hours	Vehicle Hours	Hourly Cost	Gross Cost	Adjusted Revenue
Year 1	July	5,676	34.97	769.34	\$65.79	\$50,614.88
					\$6,597.66	13.04%
						22.96%
						\$11,621.18
						\$3,873.73

Route 714 cost estimate for 2009 (May 1, 2009 - April 30, 2010)

Wheaton, Naperville, and DuPage County will be billed on actual costs of construction.

The cost breakdown below is meant to provide an estimate of what is to be expected. Ridership and costs will be outlined on actual costs of operation.

Route 714 Billing Exhibit to demonstrate calculations

Wheaton, Naperville, and DuPage County will be billed monthly on actual cost of operation. Ridership and costs will vary.

Year 2: May 1, 2010 - April 30, 2011

To arrive at Recovery Ratio: Adjusted Revenue divided by Gross Cost

To arrive at % needed to reach:  $\frac{1}{1 - \text{Recovery Ratio}}$

To arrive at monthly billings: % needed to reach  $\times$  multiplied by Gross Cost

**EXHIBIT C**

Month	Ridership	Daily Vehicle	Hours	Vehicle Hours	Hourly Cost	Gross Cost	Adjusted Revenue	Recovery Ratio	% needed to reach 30%	Total due from Naperville, Wheaton and DuPage County	Cost to Naperville, Wheaton and DuPage County each
Year 2	July	5,676	34.97	769.34	\$65.79	\$50,614.88	\$6,597.66	13.04%	16.96%	\$8,384.28	\$2,861.43

Route 714 cost estimate for 2010 (May 1, 2010 - April 30, 2011)

Wheaton, Naperville, and DuPage County will be billed on actual costs of operation.

The cost breakdown below is meant to provide an estimate of what is to be expected. Ridership and costs will vary.

2010	through	Daily Vehicle	Hours	Quarterly Vehicle Hours	Daily Cost per Vehicle Hour	Daily Cost	Quarterly Total Cost	Quarterly Revenue (\$1.15 per rider)	Quarterly Net Cost	Recovery Ratio	Percent needed to reach a recovery ratio of 30%	Total Quarterly Amount due from Wheaton, Naperville, and DuPage County each to pay Quarterly	Total Quarterly Amount due from Wheaton, Naperville, and DuPage County each to pay Quarterly
May 1, 2010	through	Ridership										\$17,644.28	\$17,644.28
April 30, 2011	Ridership	Daily Vehicle Hours	34.97	2203.11	\$67.72	\$2,368.26	\$23,771.73	\$23,428.39	15.9%	14.1%	\$22,055.31	\$22,055.31	\$22,055.31
1st Quarter	17,437	34.97	2238.08	\$67.72	\$2,368.26	\$23,582.49	\$23,151.97	\$13.2%	16.8%	\$22,351.77	\$22,351.77	\$22,351.77	
2nd Quarter	20,959	34.97	2238.08	\$67.72	\$2,368.26	\$23,464.98	\$24,103.39	15.9%	14.1%	\$17,969.18	\$17,969.18	\$17,969.18	
3rd Quarter	22,019	34.97	2273.05	\$67.72	\$2,368.26	\$25,322.11	\$28,614.52	16.4%	13.6%	\$17,427.65	\$17,427.65	\$17,427.65	
Total							\$513,023.86				\$75,096.43		\$75,096.43
												\$25,032.14	

Route 714 Billing Exhibit to demonstrate calculations

Wheaton, Naperville, and DuPage County will be billed monthly on actual cost of operation. Ridership and costs will vary.

Year 3: May 1, 2011 - April 30, 2012

To arrive at Recovery Ratio: Adjusted Revenue divided by Gross Cost

To arrive at % needed to reach:  $\frac{1}{1 - \text{Recovery Ratio}}$

To arrive at monthly billings: % needed to reach  $\times$  multiplied by Gross Cost

Month	Ridership	Daily Vehicle	Hours	Vehicle Hours	Hourly Cost	Gross Cost	Adjusted Revenue	Recovery Ratio	% needed to reach 25%	Total due from Naperville, Wheaton and DuPage County	Cost to Naperville, Wheaton and DuPage County each
Year 3	July	5,139	34.97	769.34	\$65.79	\$50,614.88	\$6,597.66	13.04%	11.96%	\$6,033.54	\$2,017.85

Route 714 cost estimate for 2011 (May 1, 2011 - April 30, 2012)

Wheaton, Naperville, and DuPage County will be billed on actual costs of operation

The cost breakdown below is meant to provide an estimate of what is to be expected. Ridership and costs will vary.

2011	through	Daily Vehicle	Hours	Quarterly Vehicle Hours	Daily Cost per Vehicle Hour	Daily Cost	Quarterly Total Cost	Quarterly Revenue (\$1.15 per rider)	Quarterly Net Cost	Recovery Ratio	Percent needed to reach a recovery ratio of 25%	Total Quarterly Amount due from Wheaton, Naperville, and DuPage County each to pay Quarterly	Total Quarterly Amount due from Wheaton, Naperville, and DuPage County each to pay Quarterly
May 1, 2011	through	Ridership										\$11,890.99	\$11,890.99
April 30, 2012	Ridership	Daily Vehicle Hours	34.97	2228.08	\$69.75	\$2,439.30	\$16,115.42	\$24,873.53	\$131,241.89	15.9%	9.1%	\$3,966.66	\$3,966.66
1st Quarter	17,960	34.97	2238.08	\$69.75	\$2,439.30	\$20,653.97	\$13,461.45	\$13,200.00	\$13,200.00	13.2%	11.8%	\$3,145.63	\$3,145.63
2nd Quarter	21,588	34.97	2238.08	\$69.75	\$2,439.30	\$15,611.54	\$24,826.49	\$131,288.93	\$13,288.93	15.9%	9.1%	\$3,981.27	\$3,981.27
3rd Quarter	21,982	34.97	2263.11	\$69.75	\$2,439.30	\$13,676.12	\$25,279.26	\$126,396.86	\$126,396.86	16.4%	8.6%	\$3,659.44	\$3,659.44
Total							\$526,389.14						\$16,922.01

